

AMENDED IN ASSEMBLY SEPTEMBER 2, 2005

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 12, 2005

SENATE BILL

No. 655

Introduced by Senator Ortiz
(Coauthor: Assembly Member Goldberg)

February 22, 2005

An act to amend Section 11010 of the Business and Professions Code, to amend Section 1103.4 of the Civil Code, to amend Sections 65302 and 65302.5 of the Government Code, to add Section 25928 to the Health and Safety Code, and to add Chapter 7.7 (commencing with Section 2680) to Division 2 of, the Public Resources Code, relating to asbestos.

LEGISLATIVE COUNSEL'S DIGEST

SB 655, as amended, Ortiz. Asbestos.

(1) Existing law requires a person who intends to offer subdivided lands within California for sale or lease to file with the Department of Real Estate an application for a public report consisting of a notice of intention that includes various statements regarding the condition of the property that may affect the use of the property.

This bill would additionally require the notice of intention filed with the application for a public report to include a statement indicating

that the property is within an asbestos hazard zone and to provide a specified notice.

(2) Existing law limits the liability of a transferor for failing to disclose natural hazards in a specified property transaction if the transferor retains a licensed engineer, land surveyor, geologist, or expert in natural hazard discovery dealing with matters within the scope of the professional's license of expertise.

This bill would condition the limitation on liability described above by requiring an expert in natural hazard disclosure, when responding to a request regarding natural hazards, to also determine whether the property is within an asbestos hazard zone and to provide a specified notice.

(3) Existing law requires that a city or county general plan contain specified elements, including a safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides, subsidence, liquefaction, and other seismic, geologic, and fire hazards.

This bill would additionally include specified asbestos hazards among those hazards required to be identified in the safety element of a general plan, thereby creating a state-mandated local program by imposing new duties on local agencies.

(4) Existing law provides for the Asbestos Assessment Task Force, composed of representatives from the State Department of Health Services, the Department of Industrial Relations, the Department of General Services, and the Commission on Building Standards, to analyze the magnitude of the asbestos problem in public buildings.

This bill would require the California Environmental Protection Agency (Cal-EPA) to convene the Naturally Occurring Asbestos Task Force, consisting of representatives of the State Air Resources Board, the Office of Environmental Health Hazard Assessment, the Department of Toxic Substances Control, the State Department of Health Services, the Department of Conservation, and if they agree to participate, representatives of Region IX of the United States Environmental Protection Agency, and the Agency for Toxic Substances and Disease Registry of the United States Department Health and Human Services. *The bill would require Cal-EPA, in consultation with the task force members, to evaluate, compile, and suggest guidance policies and guidelines for best management*

practices to mitigate risks associated with activities in areas with naturally occurring asbestos. *The bill would require Cal-EPA to prepare the best management practices that cities and counties may use in complying with the bill's requirements.* The bill would also require Cal-EPA to request the participation on the task force of 4 representatives from the air quality management districts, who are selected by those districts, in areas that are impacted by naturally occurring asbestos and 2 representatives from cities and 2 representatives from counties that are impacted by naturally occurring asbestos.

The bill would prohibit Cal-EPA from convening that task force ~~to take those actions and developing those best management practices~~ until federal funds are received by the agency for that purpose.

The bill would require the task force, upon convening, to develop the best management practices within a year.

(5) This bill would establish the Asbestos Hazards Mapping Act, which, among other things, would require the State Geologist to compile maps identifying asbestos hazard zones, as specified, and, upon completion, to submit those asbestos hazard maps to the State Mining and Geology Board and all affected cities, counties, and state agencies for review and comment. The act would require concerned jurisdictions and agencies to submit all comments to the board for review and consideration, and would require the State Geologist, within 90 days from the date of that submission, to revise the maps, as appropriate, and provide copies of the official maps to each state agency, city, or county, including the county recorder, having jurisdiction over lands containing an area of asbestos hazards. The act would ~~require cities and counties an applicant~~, prior to approval of a project located in an asbestos hazard zone, ~~to require compliance~~ *submit a written statement regarding how the project will comply* with the applicable local government rules, regulations, and ordinances, including, but not limited to, airborne toxic control measures, to mitigate the impact of naturally occurring asbestos. The act would further require a city or county, *before* issuing a permit for an activity, which may result in soil disturbance and which is not subject to a local air quality management district's regulations or project approval process, and to provide the applicant with a one-page summary of *advisory* measures that may be taken to reduce or mitigate exposure to naturally occurring asbestos, thereby creating a state-mandated local program by imposing new duties on local agencies. The act would

require each city and county, in preparing the safety element of its general plan, and in adopting or revising land use planning and permitting ordinances, to take into account the information provided in available asbestos hazards maps.

The act would require, on or before July 1, 2006, the State Mining and Geology Board, in consultation with the Director of Conservation, to develop specified guidelines, priorities, and procedures for asbestos hazards mapping, as provided.

The act would require a city or county receiving an official asbestos hazard map from the State Geologist to require the disclosure of real property that is located in an asbestos hazard zone on a specified form.

The act would require the Department of ~~Real Estate~~ *Toxic Substances Control* to include in the next edition of the “Homeowners’ Guide to Environmental Hazards,” but in no event later than January 1, 2007, information and consumer resources regarding naturally occurring asbestos and the asbestos hazard map.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) *The bill would incorporate additional changes to Section 11010 of the Business and Professions Code proposed by AB 459, to be operative only if AB 459 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11010 of the Business and Professions
- 2 Code is amended to read:
- 3 11010. (a) Except as otherwise provided pursuant to
- 4 subdivision (c) or elsewhere in this chapter, a person who intends
- 5 to offer subdivided lands within this state for sale or lease shall
- 6 file with the Department of Real Estate an application for a
- 7 public report consisting of a notice of intention and a completed
- 8 questionnaire on a form prepared by the department.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

(1) The name and address of the owner.

(2) The name and address of the subdivider.

(3) The legal description and area of lands.

(4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

(5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities. For subdivided lands that were subject to the imposition of a condition pursuant to subdivision (b) of Section 66473.7 of the Government Code, the true statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply obtained pursuant to Section 66473.7 of the Government Code.

(7) A true statement of the use or uses for which the proposed subdivision will be offered.

(8) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.

(9) A true statement of the amount of indebtedness that is a lien upon the subdivision or any part thereof, and that was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area, assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and that is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(11) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location

1 of each high school, junior high school, and elementary school
2 serving the subdivision, or documentation that a statement to that
3 effect has been requested from the appropriate school district.

4 (B) In the event that, as of the date the notice of intention and
5 application for issuance of a public report are otherwise deemed
6 to be qualitatively and substantially complete pursuant to Section
7 11010.2, the statement described in subparagraph (A) has not
8 been provided by any school district serving the subdivision, the
9 person who filed the notice of intention and application for
10 issuance of a public report shall immediately provide the
11 department with the name, address, and telephone number of that
12 district.

13 (12) (A) The location of all existing airports, and of all
14 proposed airports shown on the general plan of any city or
15 county, located within two statute miles of the subdivision. If the
16 property is located within an airport influence area, the following
17 statement shall be included in the notice of intention:

18
19 NOTICE OF AIRPORT IN VICINITY

20 This property is presently located in the vicinity of an
21 airport, within what is known as an airport influence area. For that
22 reason, the property may be subject to some of the annoyances or
23 inconveniences associated with proximity to airport operations
24 (for example: noise, vibration, or odors). Individual sensitivities
25 to those annoyances can vary from person to person. You may wish to-
26 consider what airport annoyances, if any, are associated with the
27 property before you complete your purchase and determine whether they
28 are acceptable to you.
29

30 (B) For purposes of this section, an “airport influence area,”
31 also known as an “airport referral area,” is the area in which
32 current or future airport-related noise, overflight, safety, or
33 airspace protection factors may significantly affect land uses or
34 necessitate restrictions on those uses as determined by an airport
35 land use commission.

36 (13) A true statement, if applicable, referencing any soils or
37 geologic report or soils and geologic reports that have been
38 prepared specifically for the subdivision.

39 (14) A true statement of whether or not fill is used, or is
40 proposed to be used in the subdivision and a statement giving the

1 name and the location of the public agency where information
2 concerning soil conditions in the subdivision is available.

3 (15) On or after July 1, 2005, as to property located within the
4 jurisdiction of the San Francisco Bay Conservation and
5 Development Commission, a statement that the property is so
6 located and the following notice:

7
8 NOTICE OF SAN FRANCISCO BAY CONSERVATION
9 AND DEVELOPMENT COMMISSION JURISDICTION
10

11 This property is located within the jurisdiction of the San
12 Francisco Bay Conservation and Development Commission. Use
13 and development of property within the commission's
14 jurisdiction may be subject to special regulations, restrictions,
15 and permit requirements. You may wish to investigate and
16 determine whether they are acceptable to you and your intended
17 use of the property before you complete your transaction.

18 (16) If the property is within an asbestos hazard zone mapped
19 pursuant to Section 2686 of the Public Resources Code, the
20 report shall contain the following notice:

21 NOTICE OF NATURALLY OCCURRING ASBESTOS
22 HAZARD ZONE

23 This property is located within an area identified by the State
24 Geologist as potentially containing naturally occurring asbestos.
25 Exposure to asbestos may create a significant health risk, and the
26 presence of asbestos-bearing minerals may result in restrictions
27 on the use or development of the property. You should consider
28 the potential risks associated with the property before you
29 complete your purchase and determine whether they are
30 acceptable to you.

31 (17) Any other information that the owner, his or her agent, or
32 the subdivider may desire to present.

33 (c) The commissioner may, by regulation, or on the basis of
34 the particular circumstances of a proposed offering, waive the
35 requirement of the submission of a completed questionnaire if the
36 commissioner determines that prospective purchasers or lessees
37 of the subdivision interests to be offered will be adequately
38 protected through the issuance of a public report based solely
39 upon information contained in the notice of intention.

1 *SEC. 1.5. Section 11010 of the Business and Professions*
2 *Code is amended to read:*

3 11010. (a) Except as otherwise provided pursuant to
4 subdivision (c) or elsewhere in this chapter, ~~any~~*a* person who
5 intends to offer subdivided lands within this state for sale or lease
6 shall file with the Department of Real Estate an application for a
7 public report consisting of a notice of intention and a completed
8 questionnaire on a form prepared by the department.

9 (b) The notice of intention shall contain the following
10 information about the subdivided lands and the proposed
11 offering:

12 (1) The name and address of the owner.

13 (2) The name and address of the subdivider.

14 (3) The legal description and area of lands.

15 (4) A true statement of the condition of the title to the land,
16 particularly including all encumbrances thereon.

17 (5) A true statement of the terms and conditions on which it is
18 intended to dispose of the land, together with copies of any
19 contracts intended to be used.

20 (6) A true statement of the provisions, if any, that have been
21 made for public utilities in the proposed subdivision, including
22 water, electricity, gas, telephone, and sewerage facilities. For
23 subdivided lands that were subject to the imposition of a
24 condition pursuant to subdivision (b) of Section 66473.7 of the
25 Government Code, the true statement of the provisions made for
26 water shall be satisfied by submitting a copy of the written
27 verification of the available water supply obtained pursuant to
28 Section 66473.7 of the Government Code.

29 (7) A true statement of the use or uses for which the proposed
30 subdivision will be offered.

31 (8) A true statement of the provisions, if any, limiting the use
32 or occupancy of the parcels in the subdivision.

33 (9) A true statement of the amount of indebtedness that is a
34 lien upon the subdivision or any part thereof, and that was
35 incurred to pay for the construction of any onsite or offsite
36 improvement, or any community or recreational facility.

37 (10) A true statement or reasonable estimate, if applicable, of
38 the amount of any indebtedness which has been or is proposed to
39 be incurred by an existing or proposed special district, entity,
40 taxing area, assessment district, or community facilities district

within the boundaries of which, the subdivision, or any part thereof, is located, and that is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(11) *A notice pursuant to Section 1102.6c of the Civil Code.*

(12) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by any school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report shall immediately provide the department with the name, address, and telephone number of that district.

~~(12)~~

(13) (A) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision. If the property is located within an airport influence area, the following statement shall be included in the notice of intention:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(B) For purposes of this section, an “airport influence area,” also known as an “airport referral area,” is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

~~(13)~~

(14) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

~~(14)~~

(15) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

~~(15)~~

(16) On or after July 1, 2005, as to property located within the jurisdiction of the San Francisco Bay Conservation and Development Commission, a statement that the property is so located and the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION
AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission’s jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(17) If the property is within an asbestos hazard zone mapped pursuant to Section 2686 of the Public Resources Code, the report shall contain the following notice:

NOTICE OF NATURALLY OCCURRING ASBESTOS
HAZARD ZONE

This property is located within an area identified by the State Geologist as potentially containing naturally occurring asbestos. Exposure to asbestos may create a significant health risk, and the presence of asbestos-bearing minerals may result in restrictions

1 *on the use or development of the property. You should consider*
2 *the potential risks associated with the property before you*
3 *complete your purchase and determine whether they are*
4 *acceptable to you.*

5 ~~(16)~~

6 (18) Any other information that the owner, his or her agent, or
7 the subdivider may desire to present.

8 (c) The commissioner may, by regulation, or on the basis of
9 the particular circumstances of a proposed offering, waive the
10 requirement of the submission of a completed questionnaire if the
11 commissioner determines that prospective purchasers or lessees
12 of the subdivision interests to be offered will be adequately
13 protected through the issuance of a public report based solely
14 upon information contained in the notice of intention.

15 SEC. 2. Section 1103.4 of the Civil Code is amended to read:

16 1103.4. (a) Neither the transferor nor any listing or selling
17 agent shall be liable for any error, inaccuracy, or omission of any
18 information delivered pursuant to this article if the error,
19 inaccuracy, or omission was not within the personal knowledge
20 of the transferor or the listing or selling agent, and was based on
21 information timely provided by public agencies or by other
22 persons providing information as specified in subdivision (c) that
23 is required to be disclosed pursuant to this article, and ordinary
24 care was exercised in obtaining and transmitting the information.

25 (b) The delivery of any information required to be disclosed
26 by this article to a prospective transferee by a public agency or
27 other person providing information required to be disclosed
28 pursuant to this article shall be deemed to comply with the
29 requirements of this article and shall relieve the transferor or any
30 listing or selling agent of any further duty under this article with
31 respect to that item of information.

32 (c) The delivery of a report or opinion prepared by a licensed
33 engineer, land surveyor, geologist, or expert in natural hazard
34 discovery dealing with matters within the scope of the
35 professional's license or expertise, shall be sufficient compliance
36 for application of the exemption provided by subdivision (a) if
37 the information is provided to the prospective transferee pursuant
38 to a request therefor, whether written or oral. In responding to
39 that request, an expert may indicate, in writing, an understanding
40 that the information provided will be used in fulfilling the

1 requirements of Section 1103.2 and, if so, shall indicate the
2 required disclosures, or parts thereof, to which the information
3 being furnished is applicable. Where that statement is furnished,
4 the expert shall not be responsible for any items of information,
5 or parts thereof, other than those expressly set forth in the
6 statement.

7 (1) In responding to the request, the expert shall determine
8 whether the property is within an airport influence area as
9 defined in subdivision (b) of Section 11010 of the Business and
10 Professions Code. If the property is within an airport influence
11 area, the report shall contain the following statement:

12
13 NOTICE OF AIRPORT IN VICINITY

14 This property is presently located in the vicinity of an
15 airport, within what is known as an airport influence area. For that
16 reason, the property may be subject to some of the annoyances or
17 inconveniences associated with proximity to airport operations
18 (for example: noise, vibration, or odors). Individual sensitivities
19 to those annoyances can vary from person to person. You may wish to
20 consider what airport annoyances, if any, are associated with the
21 property before you complete your purchase and determine whether they
22 are acceptable to you.

23
24 (2) In responding to the request, the expert shall determine
25 whether the property is within the jurisdiction of the San
26 Francisco Bay Conservation and Development Commission, as
27 defined in Section 66620 of the Government Code. If the
28 property is within the commission's jurisdiction, the report shall
29 contain the following notice:

30
31 NOTICE OF SAN FRANCISCO BAY CONSERVATION
32 AND DEVELOPMENT COMMISSION JURISDICTION

33
34 This property is located within the jurisdiction of the San
35 Francisco Bay Conservation and Development Commission. Use
36 and development of property within the commission's
37 jurisdiction may be subject to special regulations, restrictions,
38 and permit requirements. You may wish to investigate and
39 determine whether they are acceptable to you and your intended
40 use of the property before you complete your transaction.

(3) In responding to the request, the expert shall determine whether the property is within an asbestos hazard zone mapped pursuant to Section 2686 of the Public Resources Code. If the property is within an asbestos hazard zone, the report shall contain the following notice:

NOTICE OF NATURALLY OCCURRING ASBESTOS
HAZARD ZONE

This property is located within an area identified by the State Geologist as potentially containing naturally occurring asbestos. Exposure to asbestos may create a serious health risk, and the presence of asbestos-bearing minerals may result in restrictions on the use or development of the property. You should consider the potential risks associated with the property before you complete your purchase and determine whether they are acceptable to you.

SEC. 3. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to those areas. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) “Military readiness activities” mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) “Military installation” means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide

1 water agency and with all district and city agencies that have
2 developed, served, controlled or conserved water for any purpose
3 for the county or city for which the plan is prepared.
4 Coordination shall include the discussion and evaluation of any
5 water supply and demand information described in Section
6 65352.5, if that information has been submitted by the water
7 agency to the city or county. The conservation element may also
8 cover the following:

- 9 (1) The reclamation of land and waters.
- 10 (2) Prevention and control of the pollution of streams and
11 other waters.
- 12 (3) Regulation of the use of land in stream channels and other
13 areas required for the accomplishment of the conservation plan.
- 14 (4) Prevention, control, and correction of the erosion of soils,
15 beaches, and shores.
- 16 (5) Protection of watersheds.
- 17 (6) The location, quantity and quality of the rock, sand and
18 gravel resources.
- 19 (7) Flood control.

20 The conservation element shall be prepared and adopted no
21 later than December 31, 1973.

22 (e) An open-space element as provided in Article 10.5
23 (commencing with Section 65560).

24 (f) A noise element which shall identify and appraise noise
25 problems in the community. The noise element shall recognize
26 the guidelines established by the Office of Noise Control in the
27 State Department of Health Services and shall analyze and
28 quantify, to the extent practicable, as determined by the
29 legislative body, current and projected noise levels for all of the
30 following sources:

- 31 (1) Highways and freeways.
- 32 (2) Primary arterials and major local streets.
- 33 (3) Passenger and freight online railroad operations and
34 ground rapid transit systems.
- 35 (4) Commercial, general aviation, heliport, helistop, and
36 military airport operations, aircraft overflights, jet engine test
37 stands, and all other ground facilities and maintenance functions
38 related to airport operation.
- 39 (5) Local industrial plants, including, but not limited to,
40 railroad classification yards.

1 (6) Other ground stationary noise sources, including, but not
2 limited to, military installations, identified by local agencies as
3 contributing to the community noise environment.

4 Noise contours shall be shown for all of these sources and
5 stated in terms of community noise equivalent level (CNEL) or
6 day-night average level (L_{dn}). The noise contours shall be
7 prepared on the basis of noise monitoring or following generally
8 accepted noise modeling techniques for the various sources
9 identified in paragraphs (1) to (6), inclusive.

10 The noise contours shall be used as a guide for establishing a
11 pattern of land uses in the land use element that minimizes the
12 exposure of community residents to excessive noise.

13 The noise element shall include implementation measures and
14 possible solutions that address existing and foreseeable noise
15 problems, if any. The adopted noise element shall serve as a
16 guideline for compliance with the state's noise insulation
17 standards.

18 ~~(g)~~

19 (1) A safety element for the protection of the community from
20 any unreasonable risks associated with the effects of seismically
21 induced surface rupture, ground shaking, ground failure, tsunami,
22 seiche, and dam failure; slope instability leading to mudslides
23 and landslides; subsidence, liquefaction and other seismic
24 hazards identified pursuant to Chapter 7.8 (commencing with
25 Section 2690) of Division 2 of the Public Resources Code,
26 asbestos hazards identified pursuant to Chapter 7.7 (commencing
27 with Section 2680) of Division 2 of the Public Resources Code,
28 and other geologic hazards known to the legislative body;
29 flooding; and wildland and urban fires. The safety element shall
30 include mapping of known seismic, asbestos, and other geologic
31 hazards. It shall also address evacuation routes, military
32 installations, peakload water supply requirements, and minimum
33 road widths and clearances around structures, as those items
34 relate to identified fire and geologic hazards.

35 (2) *Mapping of known asbestos hazards developed pursuant to*
36 *Section 2680 of the Public Resources Code shall be included in*
37 *the safety element after the maps have been made available and*
38 *when any of the following occur:*

39 (A) *The safety element of the general plan is otherwise*
40 *amended.*

1 (B) *The housing element is otherwise amended.*

2 (C) *Two or more general plan elements are amended.*

3 ~~(1)~~

4 (3) Prior to the periodic review of its general plan and prior to
5 preparing or revising its safety element, each city and county
6 shall consult the Division of Mines and Geology of the
7 Department of Conservation and the Office of Emergency
8 Services for the purpose of including information known by and
9 available to the department and the office required by this
10 subdivision.

11 ~~(2)~~

12 (4) To the extent that a county's safety element is sufficiently
13 detailed and contains appropriate policies and programs for
14 adoption by a city, a city may adopt that portion of the county's
15 safety element that pertains to the city's planning area in
16 satisfaction of the requirement imposed by this subdivision.

17 SEC. 4. Section 65302.5 of the Government Code is amended
18 to read:

19 65302.5. (a) At least 45 days prior to adoption or amendment
20 of the safety element, each county and city shall submit to the
21 Division of Mines and Geology of the Department of
22 Conservation one copy of a draft of the safety element or
23 amendment and any technical studies used for developing the
24 safety element. The division may review drafts submitted to it to
25 determine whether they incorporate known seismic, asbestos, and
26 other geologic hazard information, and report its findings to the
27 planning agency within 30 days of receipt of the draft of the
28 safety element or amendment pursuant to this subdivision. The
29 legislative body shall consider the division's findings prior to
30 final adoption of the safety element or amendment unless the
31 division's findings are not available within the above prescribed
32 time limits or unless the division has indicated to the city or
33 county that the division will not review the safety element. If the
34 division's findings are not available within those prescribed time
35 limits, the legislative body may take the division's findings into
36 consideration at the time it considers future amendments to the
37 safety element. Each county and city shall provide the division
38 with a copy of its adopted safety element or amendments. The
39 division may review adopted safety elements or amendments and

1 report its findings. All findings made by the division shall be
2 advisory to the planning agency and legislative body.

3 (1) The draft element of or draft amendment to the safety
4 element of a county or a city's general plan shall be submitted to
5 the State Board of Forestry and Fire Protection and to every local
6 agency that provides fire protection to territory in the city or
7 county at least 90 days prior to either of the following:

8 (A) The adoption or amendment to the safety element of its
9 general plan for each county that contains state responsibility
10 areas.

11 (B) The adoption or amendment to the safety element of its
12 general plan for each city or county that contains a very high fire
13 hazard severity zone as defined pursuant to subdivision (b) of
14 Section 51177.

15 (2) A county that contains state responsibility areas and a city
16 or county that contains a very high fire hazard severity zone as
17 defined pursuant to subdivision (b) of Section 51177, shall
18 submit for review the safety element of its general plan to the
19 State Board of Forestry and Fire Protection and to every local
20 agency that provides fire protection to territory in the city or
21 county in accordance with the following dates as specified,
22 unless the local government submitted the element within five
23 years prior to that date:

24 (A) Local governments within the regional jurisdiction of the
25 San Diego Association of Governments: December 31, 2010.

26 (B) Local governments within the regional jurisdiction of the
27 Southern California Association of Governments: December 31,
28 2011.

29 (C) Local governments within the regional jurisdiction of the
30 Association of Bay Area Governments: December 31, 2012.

31 (D) Local governments within the regional jurisdiction of the
32 Council of Fresno County Governments, the Kern County
33 Council of Governments, and the Sacramento Area Council of
34 Governments: June 30, 2013.

35 (E) Local governments within the regional jurisdiction of the
36 Association of Monterey Bay Area Governments: December 31,
37 2014.

38 (F) All other local governments: December 31, 2015.

39 (3) The State Board of Forestry and Fire Protection shall, and
40 a local agency may, review the draft or an existing safety element

1 and report its written recommendations to the planning agency
2 within 60 days of its receipt of the draft or existing safety
3 element. The State Board of Forestry and Fire Protection and
4 local agency shall review the draft or existing safety element and
5 may offer written recommendations for changes to the draft or
6 existing safety element regarding both of the following:

7 (A) Uses of land and policies in state responsibility areas and
8 very high fire hazard severity zones that will protect life,
9 property, and natural resources from unreasonable risks
10 associated with wildland fires.

11 (B) Methods and strategies for wildland fire risk reduction and
12 prevention within state responsibility areas and very high hazard
13 severity zones.

14 (b) Prior to the adoption of its draft element or draft
15 amendment, the board of supervisors of the county or the city
16 council of a city shall consider the recommendations made by the
17 State Board of Forestry and Fire Protection and any local agency
18 that provides fire protection to territory in the city or county. If
19 the board of supervisors or city council determines not to accept
20 all or some of the recommendations, if any, made by the State
21 Board of Forestry and Fire Protection or local agency, the board
22 of supervisors or city council shall communicate in writing to the
23 State Board of Forestry and Fire Protection or to the local
24 agency, its reasons for not accepting the recommendations.

25 (c) If the State Board of Forestry and Fire Protection or local
26 agency's recommendations are not available within the time
27 limits required by this section, the board of supervisors or city
28 council may act without those recommendations. The board of
29 supervisors or city council shall take the recommendations into
30 consideration at the next time it considers amendments pursuant
31 to paragraph (1) of subdivision (a).

32 SEC. 5. Section 25928 is added to the Health and Safety
33 Code, to read:

34 25928. (a) Except as provided in subdivision ~~(e)~~ (f), the
35 California Environmental Protection Agency shall convene the
36 Naturally Occurring Asbestos Task Force, consisting of
37 representatives of the State Air Resources Board, the Office of
38 Environmental Health Hazard Assessment, the Department of
39 Toxic Substances Control, the State Department of Health
40 Services, the Department of Conservation, and, if they agree to

1 participate, representatives of Region IX of the United States
2 Environmental Protection Agency and the Agency for Toxic
3 Substances and Disease Registry of the United States Department
4 of Health and Human Services to evaluate and suggest guidance
5 policies and guidelines for best management practices to mitigate
6 risks associated with activities in areas with naturally occurring
7 asbestos. The California Environmental Protection Agency shall
8 also request the participation on the task force of four
9 representatives from the air quality management districts, who
10 are selected by those districts, in areas that are impacted by
11 naturally occurring asbestos, and two representatives from cities
12 and two representatives from counties that are impacted by
13 naturally occurring asbestos.

14 (b) The best management practices shall address different types
15 of residential and commercial development and recreational
16 projects.

17 (c) The best management practices shall provide guidance on
18 varying soil disturbing activities in varying geological and
19 topographical environments.

20 (d) The State Air Resources Board, in consultation with other
21 impacted state agencies, local government entities, and local air
22 districts, shall periodically review and update the best
23 management practices.

24 (e) The California Environmental Protection Agency may only
25 implement subdivision (a) with federal funds, and shall not
26 implement subdivision (a) until federal funds are received by the
27 agency for that purpose.

28 (f) Upon convening, the Naturally Occurring Asbestos Task of
29 Health and Human Services. The California Environmental
30 Protection Agency shall request the participation on the task
31 force of four representatives from the air quality management
32 districts, who are selected by those districts, in areas that are
33 impacted by naturally occurring asbestos, and two
34 representatives from cities and two representatives from counties
35 that are impacted by naturally occurring asbestos. The
36 California Environmental Protection Agency, in consultation
37 with the other members of the task force, shall evaluate, compile
38 and suggest guidance policies and guidelines for best
39 management practices to mitigate risks associated with activities

1 *in areas with naturally occurring asbestos. These best*
2 *management practices shall do both of the following:*

3 (1) Address different types of residential and commercial
4 development and recreational projects, including mitigation
5 measures for grading and soil disturbing activities during
6 construction, including, but not limited to, dust control measures
7 and mitigation measures for postconstruction activities in a
8 completed project, including, but not limited to, landscaping and
9 capping.

10 (2) Provide guidance on varying soil disturbing activities in
11 varying geological and topographical environments.

12 (b) The California Environmental Protection Agency, in
13 consultation with the task force members, shall prepare the best
14 management practices that cities and counties may use to comply
15 with subdivision (b) of Section 2687 of the Public Resources
16 Code.

17 (c) A best management practice compiled pursuant to this
18 section is advisory for each local agency, to provide assistance in
19 adopting mitigation measures.

20 (d) The Naturally Occurring Asbestos Task Force shall hold at
21 least one public hearing to gather input from stakeholders,
22 including, but not limited to, experts, individuals, and
23 organizations with expertise in mitigating naturally occurring
24 asbestos.

25 (e) The California Environmental Protection Agency, in
26 consultation with other impacted state agencies, local
27 government entities, and local air districts, shall periodically
28 review and update the best management practices and shall do so
29 after holding a public hearing and providing an opportunity for
30 comment on the proposed update.

31 (f) The California Environmental Protection Agency may
32 implement subdivision (a) only with federal funds, and shall not
33 implement subdivision (a) until federal funds are received by the
34 agency for that purpose.

35 (g) *Upon convening, the Naturally Occurring Asbestos Task*
36 *Force shall have one year to develop the best management*
37 *practices pursuant to this section.*

38 SEC. 6. Chapter 7.7 (commencing with Section 2680) is
39 added to Division 2 of the Public Resources Code, to read:

CHAPTER 7.7. ASBESTOS HAZARDS MAPPING ACT

2680. This chapter shall be known and may be cited as the Asbestos Hazards Mapping Act.

2681. The Legislature finds and declares all of the following:

(a) Asbestos is a known human carcinogen and is known to cause fatal illnesses including, but not limited to, asbestosis, lung cancer, parietal pleura, lung cancer, and mesothelioma.

(b) Asbestos is the name given collectively to the fibrous forms of several naturally occurring silicate minerals that form under high pressure in the earth's crust, which are commonly found near earthquake faults. Geologists divide asbestos into two categories, which differ in both structure and chemical composition. The two types of asbestos are: (1) serpentine, of which chrysotile is the only asbestiform type; and (2) amphiboles, which includes cocidolite, amosite, anthophyllite, and the fibrous form of actinolite and tremolite.

(c) Asbestos is commonly found in ultramafic rock. Serpentine is a type of ultramafic rock. Asbestos is less likely, but may also be present in other forms of rock such as mafic rock. The amount of asbestos that is typically present ranges from less than 1 percent to 25 percent or more.

(d) Ultramafic rock, primarily serpentine, is found in many parts of California, as many as 44 of California's 58 counties, and is especially abundant in the coastal ranges, the Klamath Mountains, and the Sierra foothills, where it is commonly exposed near earthquake faults. The asbestos contained within the rock becomes disrupted and airborne when the rock is broken through soil disturbing activities such as mining, construction, and other land grading activities.

(e) Asbestos, left undisturbed in its rock host, presents no threat to human health. However, activities that release the asbestos into the air or water disturb the asbestos and create an environmental health hazard.

(f) It is necessary to identify and map asbestos hazard zones in order for cities and counties to adequately prepare the safety element of their general plans, and to encourage land use management policies and regulations to reduce and mitigate those hazards to protect public health and safety.

1 2682. (a) It is the intent of the Legislature to provide for a
2 statewide asbestos hazards mapping and technical advisory
3 program to assist cities and counties.

4 (b) It is further the intent of the Legislature that maps and
5 accompanying information provided pursuant to this chapter be
6 made available to local governments for planning and
7 development purposes.

8 2683. As used in this chapter:

9 (a) “Board” means the State Mining and Geology Board.

10 (b) “Mitigation” means those measures that will reduce
11 asbestos risk.

12 ~~(c) “Project” means any of the following:~~

13 ~~(1) The whole of an action that has a potential for disturbing~~
14 ~~the soil in an asbestos hazard zone.~~

15 ~~(2) Activities undertaken by a public agency where soil may~~
16 ~~be disturbed, including, but not limited to, public works~~
17 ~~construction and related activities; clearing or grading of land;~~
18 ~~improvements to existing public structures; and the development~~
19 ~~of parks, playgrounds, and other recreational facilities.~~

20 ~~(3) A private project that will be carried out by a person other~~
21 ~~than a governmental agency that needs an approval from a~~
22 ~~governmental agency.~~

23 (c) (1) “Project” means the whole of an action that has a
24 potential for disturbing the soil in an asbestos hazard zone,
25 including, but not limited to, both of the following:

26 (A) Activities undertaken by any public agency where soil may
27 be disturbed including, but not limited to, public works
28 construction and related activities, clearing or grading of land,
29 improvements to existing public structures, and the development
30 of parks, playgrounds, and other recreational facilities.

31 (B) A private project that will be carried out by a person other
32 than a governmental agency, which needs a discretionary
33 approval from one or more governmental agencies.

34 (2) “Project” includes the activity that is being approved and
35 that may be subject to several approvals by governmental
36 agencies. “Project” does not mean each separate governmental
37 approval.

38 (3) The definition of project, as specified in this subdivision,
39 applies only to this chapter and does not apply to any other

1 *statute or provision of law, unless expressly provided in that*
2 *statute or law.*

3 (d) For an activity that requires the approval of more than one
4 governmental agency, the term “project” shall not mean each
5 separate governmental approval.

6 2684. (a) A city or county that receives an official map
7 pursuant to subdivision (b) of Section 2686 shall, within six
8 months of receiving that official map, require disclosure of real
9 property that is located within an asbestos hazard zone on the
10 form set forth in subdivision (b) of Section 1102.6a of the Civil
11 Code.

12 (2) *If a seller provides the disclosure pursuant to the Notice of*
13 *Naturally Occurring Asbestos Hazard Zone, as set forth in*
14 *subdivision (b) of Section 11010 of the Business and Professions*
15 *Code, the seller is not required to comply with the disclosure*
16 *required pursuant to paragraph (1).*

17 (b) In the next edition of the “Homeowners’ Guide to
18 Environmental Hazards,” prepared pursuant to Section 10084.1
19 of the Business and Professions Code, but in no event later than
20 January 1, 2007, the ~~Department of Real Estate~~ *Department of*
21 *Toxic Substances Control* shall, in the chapter of the
22 “Homeowners’ Guide to Environmental Hazards” regarding
23 asbestos, include information and consumer resources regarding
24 naturally occurring asbestos and maps prepared pursuant to
25 Section 2686.

26 (c) The specification of items for disclosure in this section
27 does not limit or abridge any obligation for disclosure created by
28 any other provision of law or that may exist in order to avoid
29 fraud, misrepresentation, or deceit in the transfer transaction.

30 2685. (a) On or before July 1, 2006, the board, in
31 consultation with the director, shall develop all of the following:

32 (1) Guidelines for the preparation of maps of asbestos hazard
33 zones in the state.

34 (2) Priorities for mapping of asbestos hazard zones. In setting
35 priorities, the board shall take into account the following factors:

36 (A) The likelihood of development within an area occurring in
37 the near future.

38 (B) The probability that the asbestos hazards would threaten
39 public health and safety.

40 (C) The contents of a geotechnical report.

1 (D) The availability of existing information.

2 (b) At least 90 days prior to adopting measures pursuant to this
3 section, the board shall transmit or cause to be transmitted a draft
4 of those measures to affected cities, counties, and state agencies
5 for review and comment.

6 2686. (a) The State Geologist shall compile maps identifying
7 asbestos hazard zones, consistent with the requirements of
8 Section 2685. The maps shall be compiled in accordance with a
9 time schedule developed by the director and based upon the
10 provisions of Section 2685 and the level of funding available to
11 implement this chapter.

12 (b) The State Geologist shall, upon completion, submit
13 asbestos hazard maps compiled pursuant to subdivision (a) to the
14 board and all affected cities, counties, and state agencies for
15 review and comment. Concerned jurisdictions and agencies shall
16 submit all comments to the board for review and consideration
17 within 90 days.

18 Within 90 days of board review, the State Geologist shall
19 revise the maps, as appropriate, and shall provide copies of the
20 official maps to each state agency, city, or county, including the
21 county recorder, having jurisdiction over lands containing an area
22 ~~of asbestos hazards. The county recorder shall record all~~
23 ~~information transmitted as part of the public record. of asbestos~~
24 ~~hazards. Upon receipt of the maps, each jurisdiction shall make~~
25 ~~the maps available to the public.~~

26 (c) In order to ensure that sellers of real property and their
27 agents are adequately informed, any county that receives an
28 official map pursuant to this section shall post a notice within
29 five days of receipt of the map at the office of the county
30 recorder, county assessor, and county planning agency,
31 identifying the location of the map, any information regarding
32 changes to the map, and the effective date of the notice.

33 ~~2687. (a) When approving a project within a hazard zone, a~~
34 ~~city or county shall require compliance with the applicable local~~
35 ~~government and local air district rules, regulations, and~~
36 ~~ordinances, including, but not limited to, airborne toxic control~~
37 ~~measures, to mitigate the impact of naturally occurring asbestos.~~

38 ~~(b) In addition to requiring compliance with all federal, state,~~
39 ~~and local laws, regulations, and ordinances, when a city or~~
40 ~~county issues a permit for an activity that may result in soil~~

~~disturbance and that is not subject to a local air district's regulations or project approval process, the city or county shall provide the applicant with a one page summary of measures that the applicant may take to reduce or mitigate exposure to naturally occurring asbestos. This may include a referral to the Internet Web sites of the State Air Resources Board or the local air district.~~

~~(e) When made available, a city, county, and any other relevant regional agency shall incorporate the best management practices developed by the Asbestos Task Force into local rules, regulations, and ordinances.~~

2687. (a) Prior to approving a project within a hazard zone, the applicant shall provide a written statement to the city, or county, or city and county describing how it will comply with the applicable local government and local air district rules, regulations, and ordinances, including, but not limited to, airborne toxic control measures, to mitigate the impact of naturally occurring asbestos. The city, county or city and county shall forward the written statement to the local air district or applicable local government.

(b) Prior to a city, county, or city and county issuing a permit for an activity that may result in soil disturbance, but that is not subject to a local air district's regulations or project approval process, the city, county, or city and county shall provide the applicant with a one page summary of advisory measures that the applicant may take to reduce or mitigate exposure to naturally occurring asbestos. This may include a referral to the Internet Web sites of the State Air Resources Board or the local air district. The city, county, or city and county may use the one page summary that the agency has received from the Naturally Occurring Asbestos Task Force prepared pursuant to Section 25928.

(c) When made available by the Naturally Occurring Asbestos Task Force, a city, county, and any other relevant regional agency shall consider and adopt those best management practices developed by the task force that the local agency deems appropriate, into the local agency's rules, regulations, and ordinances.

1 (d) Nothing in this division shall limit a city or county from
2 imposing more stringent mitigation measures than those required
3 by state law.

4 2688. Nothing in this chapter is intended to prevent cities and
5 counties from establishing policies and criteria that are more
6 ~~strict than those established by the board.~~ *strict than those*
7 *developed by the California Environmental Protection Agency.*

8 2689. Each city and county, in preparing the safety element to
9 its general plan pursuant to subdivision (g) of Section 65302 of
10 the Government Code, and in adopting or revising land use
11 planning and permitting ordinances, shall take into account the
12 information provided in available asbestos hazard maps.

13 SEC. 7. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 a local agency or school district has the authority to levy service
16 charges, fees, or assessments sufficient to pay for the program or
17 level of service mandated by this act, within the meaning of
18 Section 17556 of the Government Code.

19 *SEC. 8. Section 1.5 of this bill incorporates amendments to*
20 *Section 11010 of the Business and Professions Code proposed by*
21 *both this bill and AB 459. It shall only become operative if (1)*
22 *both bills are enacted and become effective on or before January*
23 *1, 2006, (2) each bill amends Section 11010 of the Business and*
24 *Professions Code, and (3) this bill is enacted after AB 459, in*
25 *which case Section 1 of this bill shall not become operative.*